FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

February 22, 2016

The Honorable Lynn Jenkins
U.S. House of Representatives
1027 Longworth House Office Building
Washington, D.C. 20515

Dear Congresswoman Jenkins:

Thank you for your letter requesting further clarity regarding the methodology used by the Wireline Completion Bureau (Bureau) to determine rate-of-return carrier study areas that are fully served by unsubsidized competitors and therefore subject to the phase-out of high-cost universal service support. Your views are very important and will be included in the record of the proceeding. In addition, and as further explained below, please know that the Bureau recently determined that LaHarpe Telephone Company will not be subject to the phase-out of its high-cost universal service support.

In the 2011 *USF/ICC Transformation Order,* the Commission adopted a number of rule changes to reform and modernize the universal service compensation system. One such rule change was to eliminate high-cost universal service support in incumbent local exchange carrier study areas where an unsubsidized competitor offers voice and broadband services that meet the Commission's service obligations throughout the study area. As my colleagues Commissioners Mignon Clyburn and Michael O'Reilly said in a July 2015 Joint Statement on this topic, "Providing support to a carrier that is in essence using it to compete against an unsubsidized provider is not the best use of our scarce federal universal service dollars, as it distorts the market, fuels inefficiency, creates an un-level playing field, and is not the intent of universal service."

In December 2014, the Commission directed the Bureau to publish its preliminary determination of those areas subject to 100 percent overlap and then provide an opportunity for comment. In July 2015, the Bureau made a preliminary determination finding 15 rate-of-return study areas to be 100 percent overlapped by an unsubsidized competitor and 11 study areas with an overlap of between 99 and 100 percent. Companies operating in these study areas were invited to comment on the Bureau's preliminary analysis.

With respect to some of the concerns you raise, the Bureau required purported competitors to establish that they offer, to *all* of the locations in a study area, voice and broadband services that meet the Commission's service obligations. Rate-of-return carriers identified on the preliminary list were free to submit evidence that an unsubsidized competitor does not offer service to all locations in the census blocks specified, that the competitor is not offering service to all locations within those blocks, and/or that the competitor's service does not meet the Commission's service obligations. On December 14, 2015, after thoroughly reviewing the comments received in response to the preliminary 100 percent overlap determination, including those submitted by your constituents, the Bureau issued an Order on the final determination of 100 percent overlap.

As you note in your letter, the Bureau's preliminary determination included the LaHarpe Telephone Company Inc. (LaHarpe) study area. The Bureau identified two unsubsidized competitors, Cox and JMZ Corporation (JMZ), serving the study area along with LaHarpe and invited comments from all three companies. Cox did not submit comments and therefore was not considered in the analysis. JMZ submitted a declaration that it offers voice and broadband services that meet the Commission's service obligations to all of the locations in the LaHarpe study area. LaHarpe submitted documentation and evidence to the contrary. After carefully weighing all of the evidence, the Bureau could not conclude that JMZ is meeting the Commission's minimum standards for service to all locations and found that the LaHarpe study area is not 100 percent overlapped. Therefore, LaHarpe will not be subject to the phase-out of its high-cost universal service support as a result of this process.

As you may be aware, the Commission is currently considering an Order to modernize universal support for rate-of-return carriers. Guided once again by the principle that we must ensure the efficient use of scarce universal service funds, the proposed Order would adopt a rule that would limit one type of high-cost support where there is an unsubsidized competitor serving 85 percent of locations in a census block, with provisions in place to ensure a full evidentiary showing of competition and coverage, to disaggregate support so it continues to flow to areas without such competition, and to provide a multi-year phase out for any support reductions. This rule is part of a package of intertwined reforms in the proposed Order that would provide support for standalone broadband lines, increase incentives for rural broadband investment to connect unserved consumers, and create certainty and stability in the program for years to come.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

Tom Wheeler